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10/540,203	08/17/2005	Stefan Beichl	5038.1004	6597
23280 7590 06/25/2008 Davidson, Davidson & Kappel, LLC 485 7th Avenue 14th Floor New York, NY 10018				
EXAMINER				
LEE, GILBERT Y				
ART UNIT		PAPER NUMBER		
3673				
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06/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/540,203

**Applicant(s)**

BEICHL, STEFAN

**Examiner**

GILBERT Y. LEE

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 April 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-40 is/are pending in the application.  
4a) Of the above claim(s) 24 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 20-23 and 25-40 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/22/08 has been entered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the axially symmetrical components must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 21-23, 38, and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The terms "closed" and "open" brush seal is not enabled in the specification. The closest descriptions of the two types are in paragraphs [0031] and [0032] which hint that an open-type design has a fastening ring which is a single piece with the housing.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20-23 and 25-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20-23 and 25-35 recite "axially symmetrical components". It is unclear from the disclosure and the drawings as to what is being claimed. For the purposes of this examination, the examiner is interpreting "axially symmetrical components" to be claiming that one component is encircled by another component.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. As best understood, claims 20-23, 25, 27, and 30-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnquist et al. (US Patent No. 6,105,967) in view of Kono (US Pub. No. 2002/0140174).

Regarding claim 20, the Turnquist et al. reference discloses a sealing arrangement (Fig. 1), comprising:

at least one first sealing device (e.g. 38) including an annular seal (e.g. 44);

a second sealing device (e.g. 36) including a brush seal (e.g. 36);

wherein the first and second sealing devices are placed between axially symmetrical components (e.g. 12, 14, or 10) symmetrical about an axis (Fig. 1), and the

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second sealing device is positioned so as to be axially offset from the first sealing device (Fig. 1); and

wherein the annular seal is a metallic ring seal (Fig. 1) having a separation site (Col. 4, Lines 54-66).

However, the Turnquist et al. reference fails to explicitly disclose the annular seal being a piston-ring seal.

The Kono reference, a brush seal, discloses that an annular seal can be either split or segmented (Figs. 3,4,6-9,11-14,16-18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to make the annular seal of the Turnquist et al. reference a split ring in view of the teachings of the Kono reference in order to allow enlargement through combination of split-body parts (Kono, Col. 1, Lines 9-13).

Regarding claim 21, the Turnquist et al. reference, as modified in claim 20, discloses the brush seal being a closed brush seal (Turnquist et al., Fig. 1).

Regarding claim 22, the Turnquist et al. reference, as modified in claim 20, discloses the brush seal being an open brush seal (Turnquist et al., Fig. 1).

Regarding claim 23, the Turnquist et al. reference, as modified in claim 22, discloses the open brush seal being a split ring (Turnquist et al., Col. 4, Lines 54-66).

Regarding claim 25, the Turnquist et al. reference, as modified in claim 20, discloses the brush seal including a plurality of bristle elements (Turnquist et al., Col. 4, Lines 28-30).

Regarding claim 27, the Turnquist et al. reference, as modified in claim 20, discloses one end (Turnquist et al., e.g. upper end of element 36) of the second sealing device being positioned in a recess (Turnquist et al., e.g. recess of element 12 holding element 14) of a first one of the axially symmetrical components (Turnquist et al., Fig. 1).

Regarding claim 30, the Turnquist et al. reference, as modified in claim 25, discloses the bristle elements being radially preloaded such that they have a curved shape in the radial direction (Turnquist et al., Fig. 1). Note that the bristles of the Turnquist et al. reference will be preloaded because they are designed to bear against element 10.

Regarding claim 31, the Turnquist et al. reference, as modified in claim 20, discloses the axial direction of the axially symmetrical components, the second sealing device is directly contiguous to the first sealing device (Turnquist et al., Fig. 1).

Regarding claim 32, the Turnquist et al. reference, as modified in claim 32, discloses the first sealing device forming a supporting plate for the bristle elements of the second sealing device (Turnquist et al., Fig. 1).

Regarding claim 33, the Turnquist et al. reference, as modified in claim 20, discloses a second one (Turnquist et al., e.g. 12) of the axially symmetrical components surrounding a first one (Turnquist et al., e.g. 10) of the axially symmetrical components.

Regarding claim 34, the Turnquist et al. reference, as modified in claim 33, discloses the second one of the axially symmetrical components being made up of a plurality of segments (Turnquist et al., Col. 3, Line 66 - Col. 4, Line 2).

Regarding claim 35, the Turnquist et al. reference, as modified in claim 20, discloses a first one (Turnquist et al., e.g. 12) of the axially symmetrical components comprising a housing of a gas turbine (Turnquist et al., Col. 3, Lines 57-61), and the second one (Turnquist et al., e.g. 14) of the axially symmetrical component includes a guide vane ring (Turnquist et al., e.g. 14) of a gas turbine having a plurality of vane segments (Turnquist et al., Col. 3, Line 66 - Col. 4, Line 2), the first sealing device and the second sealing device being positioned between the housing and the vane segments (Turnquist et al., Fig. 1, e.g. annularly) in order to seal a gap (Turnquist et al., e.g. gap between element 14 and 10).

Regarding claim 36, the Turnquist et al. reference, as modified in claim 20, discloses the separation site having an overlapping form (Kono, Figs. 3,4,6-9,11-14,16).

6. As best understood, claims 26, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnquist et al. in view of Kono as applied to claims 20-23, 25, 27, and 30-36 above, and further in view of Beichl et al. (US Pub. No. 2004/0188943 A1).

Regarding claim 26, the modified Turnquist et al. reference discloses the invention substantially as claimed in claim 25.

However, the modified Turnquist et al. reference fails to explicitly disclose the bristle element being wound around a guide element and being secured by a clamping element.



The Beichl et al. reference, a brush seal for a turbomachine, discloses that a brush seal can be welded (Fig. 7) or wound around a guide element (Fig. 5, 20) and secured by a clamping element (17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a guide element and a clamping element to the modified Turnquist et al. reference in view of the teachings of the Beichl et al. reference in order to provide a frictional variant (Beichl et al., Para. [0021]).

Regarding claim 28, the modified Turnquist et al. reference discloses the invention substantially as claimed in claim 27.

However, the modified Turnquist et al. reference fails to explicitly disclose the bristle element being wound around a guide element.

The Beichl et al. reference, a brush seal for a turbomachine, discloses that a brush seal can be welded (Fig. 7) or wound around a guide element (Fig. 5, 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a guide element to the modified Turnquist et al. reference in view of the teachings of the Beichl et al. reference in order to provide a frictional variant (Beichl et al., Para. [0021]).

Regarding claim 29, the Turnquist et al. reference, as modified in claim 28, discloses the unattached ends of the bristle elements engaging the second one (Turnquist et al., e.g. 28) of the axially symmetrical components.

7. As best understood, claims 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnquist et al. in view of Kono and Hagle (US Patent No. 5,074,748).

Regarding claim 37, the Turnquist et al. reference discloses a sealing arrangement (Fig. 1), comprising:

at least one first sealing device (e.g. 38) including an annular seal (e.g. 44);

a second sealing device (e.g. 36) including a brush seal (e.g. 36);

wherein the first sealing device and the second sealing device are placed between axially symmetrical components (e.g. 12, 14, or 10) symmetrical about an axis (Fig. 1), and the second sealing device is positioned so as to be axially offset from the first sealing device (Fig. 1); and

wherein the annular seal is a metallic ring seal (Fig. 1) having a separation site (Col. 4, Lines 54-66).

However, the Turnquist et al. reference fails to explicitly disclose the sealing arrangement used in fixed components and the annular seal being a piston-ring seal.

The Hagle reference, a brush seal, discloses the use of brush seals in static components of a turbine (Col. 2, Lines 7-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use seal of the Turnquist et al. reference in a static part of turbine in view of the teachings of the Hagle reference since the compliant nature of brush seal bristles can maintain resilient biased sealing contact at all times (Hagle, Lines 24-28)

The Kono reference, a brush seal, discloses that an annular seal can be either split or segmented (Figs. 3,4,6-9,11-14,16-18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to make the annular seal of the Turnquist et al. reference a split ring in view of the teachings of the Kono reference in order to allow enlargement through combination of split-body parts (Kono, Col. 1, Lines 9-13)

Regarding claim 38, the Turnquist et al. reference, as modified in claim 37, discloses the brush seal being a closed brush seal (Turnquist et al., Fig. 1).

Regarding claim 39, the Turnquist et al. reference, as modified in claim 37, discloses the brush seal being an open brush seal (Turnquist et al., Fig. 1).

Regarding claim 40, the Turnquist et al. reference, as modified in claim 37, discloses the brush seal including a plurality of bristle elements (Turnquist et al., Col. 4, Lines 28-30).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 20-23 and 25-40 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed 6/28/07 have been fully considered but they are not persuasive.

With regards to the applicant's argument of the 35 U.S.C. 112, first paragraph rejection, the argument is not persuasive because, as stated above, the closest

descriptions of the two types are in paragraphs [0031] and [0032] which hint that an open-type design has a fastening ring which is a single piece with the housing. Neither paragraph discloses a clear description of a closed or open brush seal. The paragraphs only suggest that an open-type brush seal "may be bent upwards in the manner of a spilt ring". This does not require the open brush seal to be split and does not distinguish an open-type brush seal from a closed brush seal.

With regards to the applicant's argument of the 35 U.S.C. 112, second paragraph rejection, the argument is not persuasive because two components cannot be described as being "axially symmetrical". The applicant points to various paragraphs and Fig. 1 of the current disclosure. However, the paragraphs only disclose that "axially symmetrical components which are disposed concentrically about one another." The applicant further references Appendix 1 which is a recreation of Fig. 1 with an axis A. As stated before, in order for Fig. 1 to be "axially symmetrical" one would be able to cut the vane and housing along the axis at any point around the circumference and have two symmetrical pieces; however, even Appendix 1 shows difference radial lengths of the vane around its inner circumference and would not show two axially symmetrical pieces when cut.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/  
Supervisory Patent Examiner,  
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